

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

JOHN F. RICHARDS,)	
Plaintiff)	
)	
VS.)	
)	
MASSACHUSETTS DEPARTMENT OF)	
CORRECTION; UMASS CORRECTIONAL)	
MEDICAL SERVICES; KATHLEEN)	
DENNEHY, COMMISSIONER; CAROL)	
MICI, ACTING SUPERINTENDENT;)	CIVIL ACTION NO. 04-10291-RWZ
MASSACHUSETTS BOARD OF)	
REGISTRATION (IN MEDICINE);)	
M.L. ANGELES, MEDICAL DOCTOR;)	
KHALID MOHAMED, MEDICAL)	
DOCTOR; DR. CHILDS, MEDICAL)	
DOCTOR; ASMA AHMED, NURSE)	
PRACTITIONER; and JANE DOE NO. 1,)	
PHYSICAL THERAPIST,)	
Defendants)	

**OPPOSITION OF DEFENDANT, UMASS CORRECTIONAL
HEALTH PROGRAM, TO PLAINTIFF'S MOTION
FOR DEFAULT AND/OR MOTION TO EXCLUDE THE
DEFENDANT, UMASS CORRECTIONAL HEALTH PROGRAM FROM
FILING ANY MOTION FOR SUMMARY JUDGMENT IN THIS MATTER**

NOW COMES the defendant, **UMass Correctional Health Program**,¹ ("UMass") in the above-captioned matter, and hereby requests this Honorable Court deny *Plaintiff's Motion for Default and/or Motion to Exclude the Defendant, UMass Correctional Health Program, from Filing any Motion for Summary Judgment in this Matter*. As grounds therefor, the defendant states the following:

¹ UMass Correctional Medical Services is a misnomer.

1. On or about February 11, 2004, plaintiff filed a Complaint in this matter alleging civil rights violations against the defendants.

2. On or about April 7, 2004, UMass filed its Answer to Plaintiff's Complaint.

3. On or about May 5, 2004, the Scheduling Conference was held before Judge Rya W. Zobel. Judge Zobel ordered that Motions for Summary Judgment were due by May 28, 2004, and Oppositions thereto are due by June 15, 2004. Further, Judge Zobel indicated that she will decide the matter on the papers.

4. On or about May 27, 2004, the plaintiff filed a *Motion for Extension of Time to File Responses to Defendants' Motions to Dismiss and/or Summary Judgment*.

5. On or about May 28, 2004, Attorney Charles M. Urso, counsel for defendant, UMass, contacted, via telephone, Judge Zobel's Clerk, Lisa Urso, and requested a short extension of time to file its Motion for Summary Judgment. As reasons therefor, Attorney Urso indicated that he needed more time to procure signed Affidavits.

6. On May 28, 2004, the deadline for filing Summary Judgment Motions was extended to June 4, 2004. The deadline for filing oppositions thereto was similarly extended to June 22, 2004.

7. On June 4, 2004, UMass filed its Motion for Summary Judgment, together with supporting papers, including a signed Affidavit, within the time allotted by the Court.

8. The plaintiff has not been prejudiced by this short extension of time. However, UMass would be prejudiced if the Court allows *Plaintiff's Motion for Default and/or Motion to Exclude the Defendant, UMass Correctional Health Program, from Filing any Motion for Summary Judgment in this Matter*.

WHEREFORE, the *Plaintiff's Motion for Default and/or Motion to Exclude the Defendant, UMass Correctional Health Program from Filing any Motion for Summary Judgment in this Matter* should be DENIED as defendant, UMass Correctional Health Program, filed its Motion for Summary Judgment and supporting documents within the time specified by this Court, and Plaintiff's Motion is now moot.

Respectfully submitted,

The Defendant,
**UMASS CORRECTIONAL
HEALTH PROGRAM**

By its attorneys,

MORRISON, MAHONEY & MILLER, LLP

/s/ Charles M. Urso

Bruce R. Henry, BBO #230880
Charles M. Urso, BBO #647748
250 Summer Street
Boston, MA 02210
(617) 439-7500